



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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| UNITED STATES OF AMERICA, |) | Criminal Case No.08cr1919-IEG |
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| Plaintiff, |) | DEPOSITION ORDER FOR |
| |) | MATERIAL WITNESS: |
| |) | |
| v. |) | MARTIN VACA-SOTO |
| |) | |
| |) | |
| |) | |
| TROY JOHN RITTENHOUSE, |) | |
| |) | DATE: July 31, 2008 |
| |) | TIME: 10:00am |
| |) | COURT: Hon. Jan M. Adler |
| |) | San Diego, California |
| Defendant. |) | |
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ORDER

Upon the request of the material witness, **MARTIN VACA-SOTO**, hereinafter known as the material witness, and his counsel, Attorney James C. Alvord, and good cause appearing:

1. The material witness being held in custody in case number 08cr1919-IEG shall be deposed on 8/14/08, at 10:30am in the United States Attorney's office, located at 880 Front Street, Fifth Floor, in San Diego, California.

1 2. All parties, meaning the United States and the
2 defendant, shall attend the material witness's deposition. The
3 arresting agency shall bring the material witness to the
4 deposition. If, in custody, the defendant shall be brought
5 separately to the deposition and a marshal shall remain present
6 during the proceedings.

7 3. The United States Attorney's Office shall provide a
8 videotape operator, and, if necessary, arrange for a court-
9 certified interpreter to be present for the material witness. The
10 cost of the interpreter for the material witness will be borne by
11 the United States Attorney's Office.

12 4. If the defendant needs an interpreter other than the
13 material witness interpreter (if any), defense counsel will
14 arrange for a court-certified interpreter to be present. The
15 cost of a separate interpreter for the defendant shall be paid by
16 the Court.

17 5. The United States Attorney's Office shall arrange for a
18 certified court reporter to be present. The court reporter shall
19 stenographically record the testimony, serve as a notary and
20 preside at the deposition in accordance with Rule 28(a) of the
21 Federal Rules of Civil Procedure. The cost of the court reporter
22 shall be borne by the United States Attorney's Office.

23 6. The deposition shall be recorded by videotape, meaning a
24 magnetic tape that records sound as well as visual images. At
25 the conclusion of the deposition, on the record, the witness or
26 any party may elect to have the witness review the videotape
27 record of the deposition so as to check the recording for errors
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1 or omissions and to note any changes. Any errors or changes, and
2 the reasons for making them, shall be stated in writing, signed
3 by the witness delivered to the notary in a sealed envelope and
4 filed in the same fashion as described in Paragraph 17 below,
5 unless the parties agree on the record to a different procedure.

6 7. The operator shall select and supply all equipment
7 required to videotape the deposition and shall determine all
8 matters of staging and technique, such as number and placement of
9 cameras and microphones, lighting, camera angle, and background.
10 The operator shall determine these matters in a manner that
11 accurately reproduces the appearance of the witness and assures
12 clear reproduction of both the witness's testimony and the
13 statements of counsel. The witness or any party to the action,
14 may object on the record to the manner in which the operator
15 handles any of these matters. Any objections shall be
16 considered by the Court in ruling on the admissibility of the
17 videotape record. All such objections shall be deemed waived
18 unless made promptly after the objector knows, or had reasonable
19 grounds to know, of the basis for such objections.

20 8. The depositions shall be recorded in a fair, impartial,
21 and objective manner. The videotape equipment shall be focused
22 on the witness; however, the videotape operator may when
23 necessary or appropriate focus upon charts, photographs, exhibits
24 or like material being shown to the witness.

25 9. Before the examination of the witness, the Assistant
26 U.S. Attorney shall state on the record his/her name; the date,
27 time and place of the deposition; the name of the witness; the
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1 identity of the parties and names of all persons present in the
2 deposition room. The court reporter shall then swear the witness
3 on the record. Prior to any counsel beginning an examination of
4 the witness, that counsel shall identify himself/herself and
5 his/her respective client on the record.

6 10. Once the deposition begins, the operator shall not stop
7 the videotape recorder until the deposition concludes, except
8 that any party may request a brief recess, which request will be
9 honored unless another party objects and specifies a good faith
10 basis for the objection on the record. Each time the tape is
11 stopped, or started, the operator shall announce the time on the
12 record. If the deposition requires the use of more than one
13 tape, the operator shall sequentially identify on the record the
14 end and beginning of each tape.

15 11. All objections both as to form and substance shall be
16 recorded as if the objection had been overruled. The Court shall
17 rule on objections at the appropriate time. The party raising
18 the objection(s) shall prepare a transcript for the Court to
19 consider. All objections shall be deemed waived unless made
20 during the deposition.

21 12. The party offering the deposition into evidence at
22 trial shall provide the Court with a transcript of the portions
23 so offered.

24 13. Copies of all exhibits utilized during the videotaped
25 deposition shall be attached to the videotaped record.

26 14. At the conclusion of the deposition, any objection,
27 including the basis, to release of the material witness from
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1 custody shall be stated on the record. If there is no objection,
2 the attorney for the material witness shall immediately serve all
3 parties with a Stipulation and Proposed Order for Release of the
4 Material Witness and submit the Order to the Clerk of the Court
5 for the Judge's signature. Prior to release from custody, the
6 attorney for the Government shall serve the material witness
7 with a subpoena for the trial date and a travel fund advance
8 letter.

9 15. The operator shall provide a copy of the videotaped
10 deposition to any party who requests a copy at that party's
11 expense. After preparing the requested copies, if any, the
12 videotape operator shall deliver the original videotape to the
13 notary along with a certificate signed by signed by the operator
14 attesting that the videotape is an accurate and complete record
15 of the videotaped deposition. The operator shall then deliver
16 the video tape to the notary along with a certificate signed by
17 the operator attesting that it is an accurate and complete
18 recording of the deposition. The notary shall then file the
19 original tape and certification with the Clerk of Court in a
20 sealed envelope marked with the caption of the case, the name of
21 the witness and the date of the deposition.

22 16. The notary shall file with the Clerk of the Court, in a
23 sealed envelope the original videotape, along with any exhibits
24 offered during the deposition. The sealed envelope shall be
25 marked with the caption of the case, the name of the witness, and
26 the date of the deposition. To that envelope, the notary shall
27 attached the certificate of the operator. If all counsel
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1 stipulate on the record, the Government may maintain the original
2 videotape until production is ordered by the Court or requested
3 by an party.

4 17. Unless waived by the parties, the notary shall give
5 notice to all parties of the filing of the videotaped deposition
6 with the Court pursuant to Federal Rule of Civil Procedure
7 30(f)(3).

8 18. If any party objects on record to the release of the
9 material witness from custody, the objecting party must request in
10 writing a hearing on the issue before the federal judge who is
11 assigned the case or to such other district judge or magistrate
12 judge as they designate. Notice of the Request for Hearing must
13 be served on all parties and filed with the Clerk of the Court
14 within twenty-four (24) hours after the completion of the
15 deposition, with a courtesy copy to chambers. The Court will set
16 a briefing schedule, if appropriate, and a date and time for the
17 objection to be heard as soon as reasonably practicable. At the
18 hearing, the objecting party must establish to the Court's
19 satisfaction an appropriate legal basis for the material witness
20 to remain in custody. If, after the hearing, the Court orders
21 the release of the material witness, the material witness
22 attorney shall immediately present the release order to the Court
23 for signature and filing. Before the release of the material
24 witness from custody, the Government shall serve the material
25 witness with a subpoena for the trial date and a travel fund
26 advance letter.

27 **IT IS SO ORDERED.**
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Dated:

7/31/08


UNITED STATES MAGISTRATE JUDGE

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